

## **REMARKS**

Claims 1 through 17 are currently pending in this application. Claims 1, 2, 3, 8 and 17 are presented in independent form.

The indication of allowable subject matter in Claims 4 to 6 is noted and appreciated. (See Official Action dated 7/12/05, p. 6, ¶ 11)

In regard to the objections to the drawings, replacement sheets are submitted herewith. (See Official Action dated 7/12/05, p. 2, ¶ 1) The replacement sheets have been corrected to omit reference numerals 468, 508, 514 and 604 since these numerals were not referenced in the original written description.

As to the objections to the specification (See Official Action dated 7/12/05, pp. 2 and 3, ¶ 2), paragraphs [0024], [0025] and [0029] have been corrected as noted in the prior section entitled “Amendments to the Specification.”

In regard to the rejection of claims 1-7, 10-13 and 17 under 35 U.S.C. §112, second paragraph, various claims have been amended to provide antecedent basis to overcome this rejection. (See Official Action dated 7/12/05, p. 4, ¶ 7)

Applicant respectfully traverses the rejection of Claims 1, 2 and 7 through 17 under 35 U.S.C. §112, first paragraph. specification (See Official Action dated 7/12/05, pp. 3 and 4, ¶ 5). Regarding the rejection of Claims 1 and 8, Applicant directs the Examiner’s attention to paragraphs [0006], [0007] and [0019] to [0023]. These passages along with Claims 1 and 8 as originally filed provide clear support for a measuring node with one measuring cell. For example, paragraph [0006] expressly states, “[i]n one embodiment of the invention, *a measuring cell* is used to measure the pulse width by relating a voltage to it. This voltage is then transferred by the measuring cell to a measurement node...” In any event, Applicant is

entitled to claim the method broadly. Claims 1, 2 and 8 are not limited to a single measuring cell, they only require a single measuring cell, i.e. the claim would cover one or more measuring cells. The written description and the drawings certainly provide an enabling disclosure for these claims.

With respect to the rejection of Claims 2, 7 and 17 under 35 U.S.C. §112, first paragraph, reference should be made to paragraphs [0044] and [0045] in particular for discussion of a method step of determining a range. The written description certainly provides an enabling disclosure for these claims as well. For example, paragraph [0045] states, “a measurement within a range can be used to distinguish between a set of more precise bit rates, such as Gigabit Ethernet (100 ppm) or OC-12 (20ppm). Applicants respectfully submit that Claims 2, 7 and 17 are fully enabled by the Specification.

Only claims 1, 3, 8 and 15 have been rejected based on art. Specifically, Claims 1 and 3 have been rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Holcombe et al. Claims 8 and 15 have been rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Botti et al. Applicants respectfully traverse each of these grounds of rejection.

“Anticipation...requires that the *identical invention that is claimed* was previously known to others and thus is not new....” *Continental Can v. Monsanto*, 948 F.2d 1264, 1267 (Fed. Cir. 1991)(emphasis added). *A single reference must have each and every element of the claim.* See *Advanced Display Systems Inc. v. Kent State University*, 54 USPQ 2d 1673, 1679 (Fed. Cir. 2000)(“Accordingly, invalidity by anticipation requires that the four corners of a *single, prior art document* describe every element of the claimed invention, expressly or inherently, such that *a person of ordinary skill in the art could practice the invention without*

*undue experimentation.”*)(emphasis added); See also, *PPG Industries, Inc. v. Guardian Industries Corp.*, 37 USPQ 2d 1618, 1624 (Fed. Cir. 1996)(“To anticipate a claim, a reference must disclose every element of the challenged claim and *enable one skilled in the art to make the anticipating subject matter.*”)(emphasis added)

When analyzed under the proper standard, neither rejection based on art can be sustained. Holcombe does not disclose either expressly or inherently a method for determining a data rate. Holcombe is directed to improving the reception of an infrared signal. Holcombe is not concerned with nor has any disclosure relating to determining data rate for a digital data stream. Therefore, Applicant requests that the rejection based upon Holcombe under 35 U.S.C. 102 be withdrawn.

Botti does not disclose either expressly or inherently the methods recited in Claims 8 and 15. As to Claim 8, Botti does not disclose a system for determining a data rate nor does Botti disclose a plurality of measuring cells or a measurement node for determining a minimum pulse width. As such, Botti has no relevance to the claims of this application. Accordingly, Applicant respectfully requests that the rejection based on Botti be withdrawn.

#### Summary

Applicants have made a diligent and bona fide effort to answer each and every ground for rejection or objection to the specification including the claims and to place the application in condition for final disposition. Reconsideration and further examination is respectfully requested, and for the foregoing reasons, Applicant respectfully submits that this application is in condition to be passed to issue and such action is earnestly solicited.

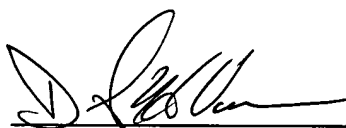
It is believed that no additional fees are presently due. However, should that determination be incorrect, the undersigned hereby authorizes the Patent Office officials to debit Deposit Account No. 50-0562 to satisfy any and all fees which may be due.

Should the Examiner wish to discuss this matter further, please contact the undersigned at the below listed number.

Dated: August 31, 2005

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'D. Voorhees', is written over a horizontal line.

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Attorney for Applicant

## **AMENDMENTS TO THE DRAWINGS**

The attached sheets of drawings include replacement sheets for all drawings 1 through 7. In addition, annotated sheets of Figures 4B, 5 and 6 are provided to show the deleted reference numerals 468, 508, 514 and 604.

Attachments:      Eight replacement sheets

Three annotated sheets showing changes

Annotated sheet showing changes



# Measurement Node Timing

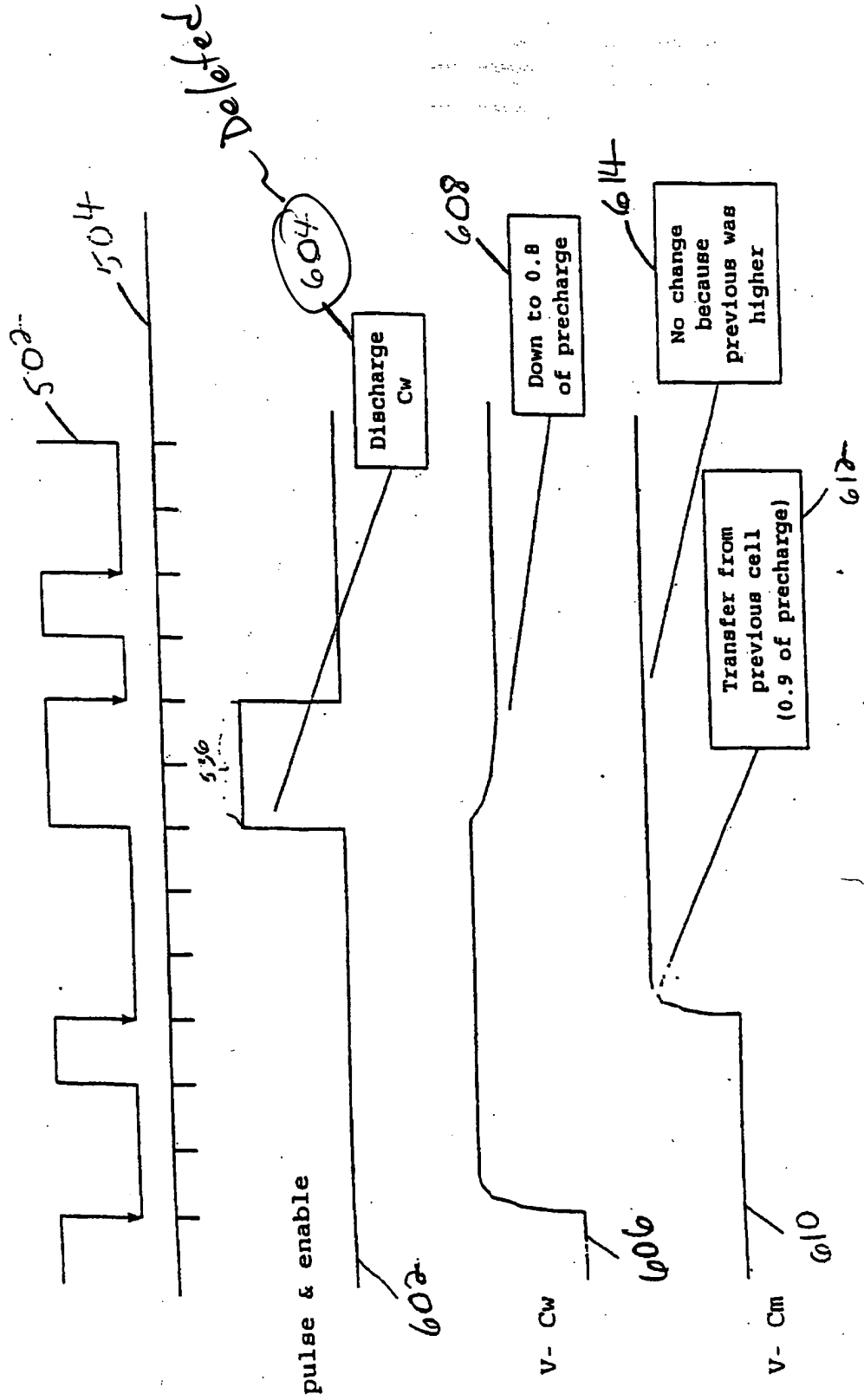


FIGURE 6

# Timer Control

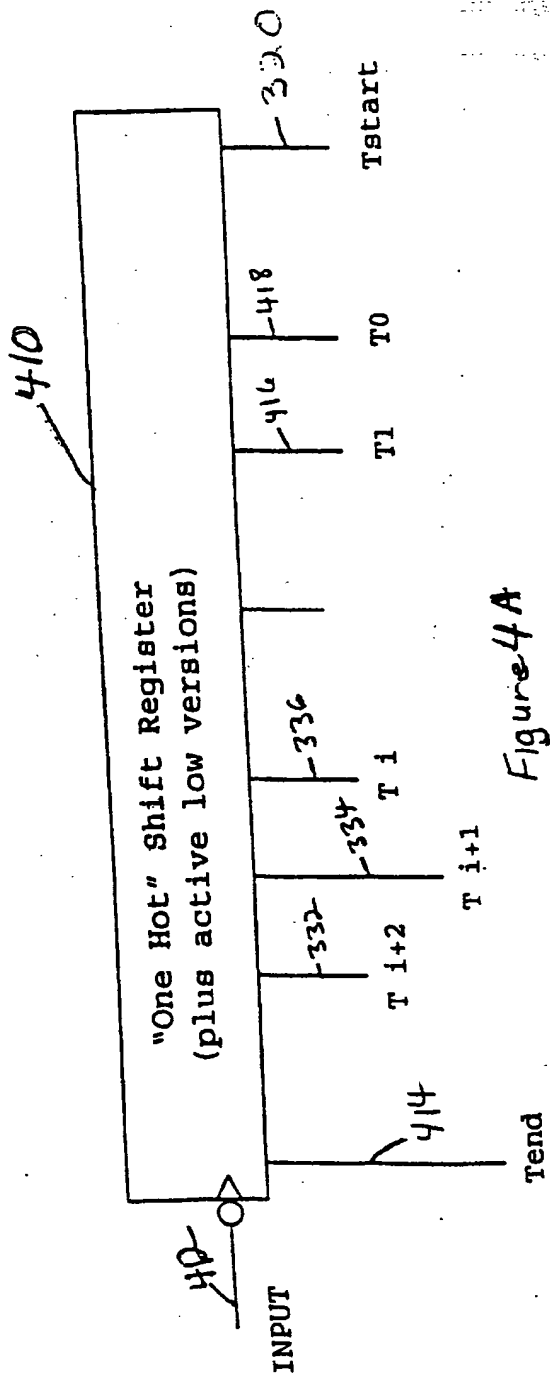


Figure 4A

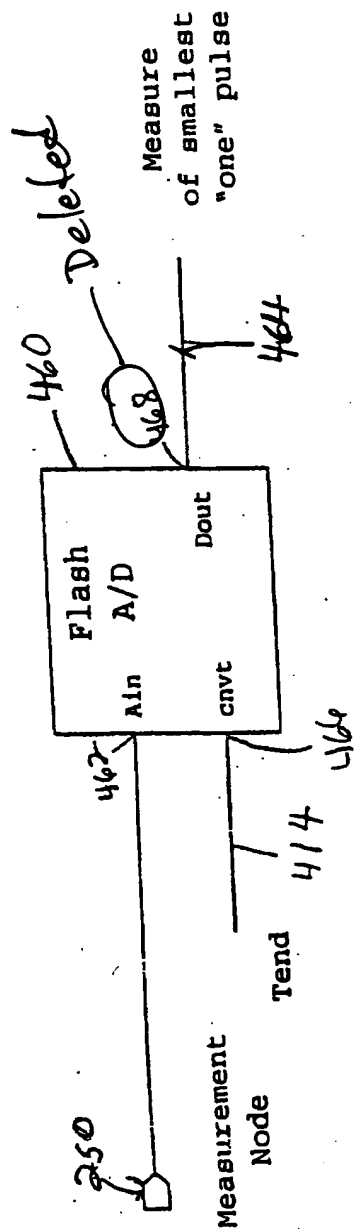


FIGURE 4B

Annotated sheet showing changes



# Cell Timing

500

505

504

Precharge  
C<sub>w</sub>

508

Deleted

530

precharge

506

534

536

enable 510

transfer 512

pulse 518

Voltage  
to C<sub>m</sub>

514

Deleted

Discharge  
C<sub>w</sub>

522

pulse width 536

Figure 5